




CITY OF DURHAM | DURHAM COUNTY
NORTH CAROLINA



Date: November 3, 2014

To: Thomas J. Bonfield, City Manager
Through: Keith Chadwell, Deputy City Manager
From: Steven L. Medlin, AICP, Planning Director 
Subject: *Unified Development Ordinance* Text Amendment, Industrial Light (IL)
Project Boundary Buffer (TC1400002)

Summary. Text amendment TC1400002 is a privately-initiated request to reduce the required project boundary buffer required for properties zoned Industrial Light (IL) adjacent to developed properties without a buffer in the Industrial (I) zoning district. The amendment would reduce a potential 100% buffer opacity to 40% opacity, with a corresponding reduction to the buffer width, and limited to properties of four acres or less. The specific text amendment application is found in Attachment A.

As part of this request, the Planning staff proposes a minor reorganization of UDO paragraph 9.4.3 for clarity. This change would create a new paragraph 9.4.3C, Modifications to the Project Boundary Buffer Table. In this paragraph, staff has relocated the current buffer modification standards found in paragraph B, and has added the proposed standard discussed above (Attachment B). No other changes are proposed.

Recommendation. Staff recommends approval of the attached ordinance to amend Industrial Light (IL) buffer requirements of the *Unified Development Ordinance* (TC1400002); and recommends approval of a consistency statement declaring the request consistent with the *Durham Comprehensive Plan* and that the request is reasonable and in the public interest.

The Planning Commission recommended approval, 13-0, of the text amendment on September 9, 2014. The Planning Commission determined that the ordinance request is consistent with the adopted *Comprehensive Plan*, and that the request is reasonable and in the public interest based on comments received at the public hearing and the information in the staff report.

Background. The text amendment application is a privately-initiated amendment submitted by the Morningstar Law Group on behalf of Wendy's International, LLC. On August 6, 2014, the Joint City-County Planning Committee (JCCPC) reviewed the text amendment and did not indicate any concerns with the request.

The Planning Commission heard the request at its September 9, 2014, meeting and recommended approval. The Durham County Board of Commissioners will consider this request at its November 10, 2014, meeting.

Issues. Project boundary buffers are primarily required based upon the zoning district of the subject property and adjacent zoning, and whether or not the adjacent property is already developed, with or without a buffer. With limited exceptions, project boundary buffers are not based upon proposed and adjacent uses. Buffer requirements consist of the two parameters of opacity and width. Opacity provides the actual screening; while the buffer widths provide sufficient room for the plant materials to grow, and potentially results in additional separation of uses. The buffer opacity is further subdivided into two parts: 1) the opacity required against vacant property (with the remainder to be provided when that property is developed); and 2) the total buffer opacity, which is also the opacity required when the adjacent property is already developed without a buffer.

Therefore, if development is proposed on property zoned IL that is adjacent to property zoned I and already developed without a buffer, a 100% opacity buffer would currently be required with a width of 80 feet in the Rural and Suburban tiers, or 37.5 feet* in the Urban Tier. The required buffer widths can create an issue when development or redevelopment is proposed on a smaller, IL-zoned lot adjacent to a developed I-zoned property by significantly reducing, and possibly eliminating, potential building envelopes.

The proposed amendment modifies the 100% opacity requirement by reducing it to 40% only when the IL-zoned property is four acres or less and is adjacent to I zoning. The resulting buffer widths would be 20 feet in the Rural and Suburban tiers and 15 feet in the Urban Tier. This results in a buffer width that allows for more development of an infill or redevelopment site while requiring a sufficient amount of plant material to provide screening.

No modification is proposed for buffer requirements when the I-zoned property already maintains a buffer or is vacant. In these instances, the minimum buffer opacity would be 20% and the minimum width would be 10 feet in all tiers.

Until a more comprehensive evaluation and consideration of the current buffer and landscaping requirements of the UDO can be performed, staff has determined the request is reasonable and is in the public interest for the following reasons:

1. The request would not conflict with policies within the *Comprehensive Plan*. Policy 4.1.1g, *Project Boundary Buffer Requirements*, states that standards

* A six-foot wall is required for a 100% opacity buffer in the Urban Tier, requiring less width and plant material.

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should focus on impacts associated with differing uses by focusing on opacity and separation of uses in the Suburban and Rural Tiers, and opacity only in the Urban Tier to respect a more urban form. *Policy 2.3.4a, Infill Development Standards*, encourages and promotes compatible residential and nonresidential infill on vacant or under-utilized property within developed portions of the community to reinforce the existing character. The proposed text amendment appears to maintain the direction provided by Policy 4.1.1g, while accommodating the goal of infill development discussed in Policy 2.3.4a, as further discussed below.

2. Uses allowed in the IL District are not anticipated to negatively impact uses allowed in the I District, which is typically reserved for more heavy industrial uses. No residential uses are permitted in either zoning district, except ancillary caretaker units.
3. The current, wide buffer requirement severely limits infill development on smaller properties, such as those four acres or less. It also limits redevelopment because if a site plan is required, the redevelopment must meet current Ordinance standards even if the category of use does not change from the existing development.
4. The modified buffer requirement would apply to a limited number of parcels because the standard limits the reduction to the size of the IL-zoned property and adjacency to I zoning. The four-acre size limit is a reasonable requirement and consistent with other infill standards within the UDO.
5. The reduction would result in a buffer requirement consistent with current buffer requirements of the IL District adjacent to other high intensity nonresidential districts including Commercial General (CG), Commercial Center (CC), Industrial Park (IP), and other IL-zoned property.

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Attachments:

Attachment A: Application by Morningstar Law Group

Attachment B: An Ordinance to Amend the *Unified Development Ordinance* Regarding Required Project Boundary Buffers for the Industrial Light (IL) Zoning District (TC1400002)

Attachment C: Statement of Consistency pursuant to NCGS § 160A-383

Attachment D: Planning Commission Comments